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### REMARKS

The Applicant would like to thank **Examiner Blake** for the analysis set forth in the Examination Report and, in response and to address the issues raised in the Final Action of December 2, 2004, submits the present Preliminary Amendment corresponding with the accompanying Request for Continued Examination.

Claim 7 has been objected to for the reasons stated in the official action. Claim 7 has been cancelled from the application without prejudice or disclaimer of the subject matter therein

Claims 1, 3, 4, 6, and 7 are rejected, under 35 U.S.C. § 103, as being unpatentable over Omi '179. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

Claims 1, 3, and 7 have been cancelled from the application and claims 4 and 6 remain pending.

The Examiner has stated that a repetition of this rejection stems from an interpretation of the claim language that "laterally" and "radially" are interpreted as being the same direction. Claim 4 has been amended to specify that the contact members are spaced laterally from the first face of the circular saw blade. It is believed that this amendment adds the necessary clarity to the objectionable claim wording.

Claims 1, 3, 4, 6, and 7 are rejected, under 35 U.S.C. § 102, as being anticipated in view of Meredith et al. '875. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks. Claims 1, 3, 4, 6, and 7, are also rejected under 35 USC 102 as being anticipated by Meredith. In response to these new grounds of rejection, the method Claims 1 and 3 have been cancelled.

As noted by the Examiner, there is some similarity in the method employed. It is respectfully submitted, however, that the apparatus is sufficiently different in so as to warrant the granting of patent protection.

First, on one hand the Meredith et al '875 reference is a miter saw, while on the other hand, the present application relates to a delimbing machine. Although they are both saws there are vast differences between these two machines.

Second, the Meredith et al '875 miter saw has a guard 42 that moves around a lower circumference of a fixed position blade. In contrast, the delimbing machine of the present application has a saw head compartment which serves as a guard and the saw blade moves between a lowered cutting position and a raised retracted position.

Third, on one hand the Meredith et al '875 has a guard which is retracted by rotation around the rotational access of the saw blade. On the other hand due to the size of the "guard" (saw head compartment) of the present application, the guard has an access door 14 that pivots about a vertical pivot axis when the saw blade is in a vertical position.

Fourth, the Examiner has referred to the movable lower guard 42 of Meredith et al '875 et al as an "access door" and indicated that "contact member 71 is mounted to the inside surface of the access door 42". It is respectfully submitted that this is not correct. Figures 13a and 13b clearly show contact member 71 extending through fixed upper blade guard 40 not the movable lower guard 42. If however the contact member 71 extended through the movable lower guard 42, this would prevent the lower guard 42 from rotating open. (see description column 7 at lines 21 "blade caliper 71 is fixed on the upper guard 40"). In contrast the current application clearly claims that at least one contact member 18 is mounted to the inside of the access door.

The Examiner is suggesting that contact member 71 contacts the "lower circumferential peripheral edge of circular saw blade 18". The Applicant refers the Examiner to the teachings of Meredith et al '875 found in column 7 at lines 11-24. Where retaining fastener 69 is described as being inside the fixed upper guard "at a radial location well inboard of the cutting teeth" and blade calliper 71 is described as being "generally at the same inboard radial position as the retaining fastener/calliper 69".

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, the independent claim of this application now recite the features of "[a]n apparatus for reducing damage caused to a circular saw blade on a delimbing machine, comprising....a saw head compartment ....having an access door that pivots about a vertical pivot axis, the access door having an inside surface.....at least one contact member mounted to the inside surface of the access door of the saw head compartment, the at least one contact member being positioned immediately adjacent to and spaced laterally from the first face of the circular saw blade and radially inwardly from the lower circumferential peripheral edge of the circular saw blade when in a retracted position within the saw head compartment...." Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

In view of the foregoing amendments and arguments, it is respectfully submitted that the present application is now in a condition for allowance. The Applicant, therefore, requests reconsideration and the issue of a Notice of Allowance.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejections or applicability of the Omi '179 and Meredith et al '875 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating

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the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

  
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